IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.529 OF 2006

Virjita M. Suneel ...Petitioner

vs.

The State of Maharashtra & Others ...Respondents

Mr.R.P.Lambey with Ms A.R.Lambey i/b Lambey & Co. for the Petitioner
Mr.Amol Doijode for Respondent No.2
Ms S.V.Gajare,A.P.P. for State

CORAM: A.S.OKA,J.
DATE : SEPTEMBER 12,2006.

P.C.:

1. Heard Advocate appearing for the Petitioner. The challenge in this Petition filed under Article 227 of Constitution of India read with section 482 of the Code of Criminal Procedure, 1973 is to the order issuing process passed by the learned Magistrate on a complaint filed under section 138 read with section 141 of the Negotiable Instruments Act, 1881. A prayer is also made for quashing the complaint.

2. In view of the decision of the learned Single Judge of this Court in case of V.K.Jain and others vs. Pratap Padode and another reported in (2005) 3 Mh.L.J. page 778, it is obvious that remedy of preferring a Revision Application under section 397 of the Code of Criminal Procedure, 1973 is available to the Petitioner for challenging the order issuing process on the complaint filed by the complainant. The Petitioner has not avaialed of the said remedy. In view of availability of the said remedy, this Petition is not entertained and the same is rejected.

3. Notwithstanding rejection of this Petition, it will be open for the Petitioner to approach the Sessions Court by way of a Revision Application.

4. It is made clear that if Application for condonation of delay is made by the Petitioner before the Sessions Court, the Sessions Court is bound to consider the fact that the Writ Petition was filed in this Court on 2nd March 2006 and notice before admission was issued on 18th April 2006 and the Petition remained pending till today.

5. All contentions of the parties are kept open.

JUDGE